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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,643	11/02/2000	Vojin Jeremijevic	Q61622	8866

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EXAMINER

GHAFOORIAN, ROZ

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 06/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/674,643		JEREMIJEVIC, VOJIN	
	Examiner		Art Unit	
	Roz Ghafoorian		3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 15-36 is/are pending in the application.
- 4a) Of the above claim(s) 4-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 15-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 23-25, 31 and 15-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Claim 15 recites the limitation "second outlet" in line 20, "first portion" in line 21, "a first position" in line 23, "a second position" in line 23, and "its first position to its second position" in line 27. There is insufficient antecedent basis for these limitations in the claim.

b. Claim 16 recites the limitation "its first position to its second position" in line 3, "its first position to its second position" in line 11, and "its first position" in line 14. There is insufficient antecedent basis for these limitations in the claim.

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- c. Claim 18 recites the limitation "the wall" in line 5. There is insufficient antecedent basis for this limitation in the claim.
- d. Claim 19 recites the limitation "the second channel portion" in line 4, "its first position" in line 6, "the two limbs" in line 7, "its first position" in line 9, and "the second part" in line 11. There is insufficient antecedent basis for these limitations in the claim.
- e. Claim 23 recites the limitation "the low end" in line 3. There is insufficient antecedent basis for this limitation in the claim.
- f. Claim 24 recites the limitation "the female part" in line 3, and "two openings" in line 5. There is insufficient antecedent basis for these limitations in the claim.
- g. Claim 25 recites the limitation "the wall" in line 2. There is insufficient antecedent basis for this limitation in the claim.
- h. Claim 31 recites the limitation "its sharp end and its base end" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 26-29, 30-32, and 36 are rejected under 35 U.S.C. 102(b) as being ~~clearly~~ anticipated by U.S. Patent 4790828 to Dombrowski et al.

Dombrowski discloses a self-capping needle assembly. It contains a sleeve with a through bore defined on a given axis, a first link having a first and second ends, a

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hinge means for connection the first end of the link to the sleeve, a base means suitable for receiving the base end of the needle to be protected, a crank arm, the crank arm being no greater than the length of the link. It further contains a second link and crank arm. The first and second links and crank arm are situated substantially in a common plane and form substantially a quadrilateral whose diagonal are substantially perpendicular. (Figs 1-5)

3. Claims 15-22 are rejected under 35 U.S.C. 102(b) as being ~~clearly~~ anticipated by U.S Patent No.5743888 to Wilkes et al.

Wilkes disclose a safely needle. Wilkes's apparatus contains a sleeve having a through bore a base secured to the base end of the needle and link means connecting the sleeve to the base, with 2 channels and shutter, the shutter being suitable for taking up a first position and a second position. (Figures 5-7) It further contains a flexible rod and a release cavity; means for locking the position of the second end of the flexible rod end it is retracted into the second channel portion (figures 8a-8g). The first part and second part formed on either side of the though bore the first part of the first channel portion being in line with the second channel portion. The rod the shutter are made as a single piece, of a plastic material.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 2, 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S Patent 4790828 to Dombrowski et al., and further in view of U.S Patent No.5197954 to Cameron.

As mentioned above Dombrowski discloses a self-capping needle assembly. Dombrowski, does not disclose a base with two part attached via a weak point. However the idea of a mechanism that allows the caregiver to modify the syringe by breaking a part of the syringe is not new in the art and Cameron is only one example. Cameron teaches a hypodermic syringe having folding needle. Cameron's syringe contains a base with two parts allowing the caregiver to break the needle away once it has been used.

Therefore it would have been obvious to one having ordinarily skill in the art at the time the invention was made to have combined these two studies because according to Cameron the ability to break the needle away safely eliminated the problems of re-use and accidental injury form used hypodermic syringes. (Col.1, lines 35-40)

5. Claims 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S Patent 4790828 to Dombrowski et al, and further in view of U.S Patent No.4283493 to Schlesinger.

As mentioned above Dombrowski discloses a self-capping needle assembly. Dombrowski, however, does not disclose a sachet made of non-stretch material and being capable of tearing under a given traction. Schlesinger teaches a biological specimen collection and transport system.

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Therefore it would have been obvious to one having ordinarily skill in the art at the time the invention was made to have combined these two studies because according to Schlesinger the sachet is simple to use and enhances prevention of the spread of infection during transportation and analysis of the collected specimen. (Col. 1, lines 65-67)

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roz Ghafoorian whose telephone number is 703-305-2336. The examiner can normally be reached on 8:30am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703-308-3552. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

RG

RG

May 22, 2002


ANH TUAN T. NGUYEN
PRIMARY EXAMINER
A/SPE 6/3/02